

## CHAPTER 60

# VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) PERMIT REGULATIONS

### Part IIIA

#### Local Programs

**4VAC50-60-100. Applicability.** Repeal

**4VAC50-60-110. Technical criteria for local programs.** Repeal

**4VAC50-60-120. Requirements for local program and ordinance.** Repeal

**4VAC50-60-130. Administrative procedures: stormwater management plans.** Repeal

**4VAC50-60-140. Administrative procedures: exceptions.** Repeal

**4VAC50-60-150. Administrative procedures: maintenance and inspections.** Repeal

**4VAC50-60-102. Authority and Applicability.**

In accordance with the Virginia Stormwater Management Act, §10.1-603.2 et seq., the Board may authorize a locality to administer a qualifying local program, if the locality has adopted a local stormwater management program in accordance with §10.1-603.3 subsections A or B, the Virginia Stormwater Management Act, §10.1-603.2 et seq., and the Board has deemed such program consistent with the Virginia Stormwater Management Act and these regulations in accordance with §10.1-603.3 subsection F, the Board may authorize a locality to administer a qualifying local program. Pursuant to §10.1-603.4, the Board is required to establish standards and procedures for such an authorization.

This part specifies the minimum technical criteria and the local government ordinance requirements for a local program to be considered as a qualifying local program. Such criteria include but are not limited to administration, plan review, issuance of coverage under the General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Construction Activities, inspection, and enforcement.

**4VAC50-60-104. Technical criteria for qualifying local programs.**

A. All qualifying local programs shall require compliance with the provisions of Part II (4VAC50-60-40 et seq.) unless an exception is granted pursuant to 4VAC50-60-122 and shall comply with the requirements of 4VAC50-60-460 subsection L.

B. When a locality operating a qualifying local program has adopted requirements more stringent than those imposed by this chapter or implemented a comprehensive stormwater management plan, the Department shall consider such requirements in its review of state projects within that locality in accordance with Part IV of these regulations (4VAC50-60-160 et seq.).

C. Nothing in this part shall be construed as authorizing a locality to regulate, or to require prior approval by the locality for, a state project.

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**4VAC50-60-106. Qualifying local program administrative requirements.**

A. A qualifying local program shall provide for the following:

1. Identification of the authority authorizing coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities (4 VAC 50-60-1170), the plan reviewing authority, the plan approving authority, the inspection authority, and the enforcement authority;

2. Regulations and technical criteria to be used in the qualifying local program;

3. Procedures for the submission and approval of plans;

4. Assessment and collection of fees;

5. Inspection and monitoring of land disturbing activities covered by a permit for compliance;

6. Procedures for long-term BMP stormwater management facilities inspection;

7. Enforcement.

B. A locality shall adopt an ordinance(s) that incorporates the components set out in subsection A and that includes state procedures provided by the Department for the issuance, denial, revocation, termination, reissuance, transfer, or modifications of coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities.

C. A qualifying local program shall report to the Department information related to the administration and implementation of the qualifying local program in accordance with 4VAC50-60-126.

D. A qualifying local program may require the submission of a reasonable performance bond or other financial surety and for the release of such sureties in accordance with the criteria set forth in §10.1-603.8.

**4VAC50-60-108. Qualifying local program stormwater management plan review.**

A. A qualifying local program shall require stormwater management plans for review and approval prior to commencement of land disturbing activities.

B. A qualifying local program shall approve or disapprove a stormwater management plan and required accompanying information according to the following:

1. Stormwater management plan review shall begin upon submission of a complete plan. A complete plan shall at a minimum include the following elements:

a. The location of all points of stormwater discharge, downstream receiving surface waters or karst features into which the stormwater discharges, and pre-development and post-development conditions for drainage areas, including final drainage patterns and changes to existing contours;

a b. Contact Information including the name, address, and telephone number of the property owner and the operator of the construction site and the tax reference number and parcel number of the property or properties affected;

b c. A narrative description of the site and proposed stormwater management BMPs facilities and the mechanism through which the BMPs facilities will be operated and maintained during and after construction activity;

e d. The location and the design of the proposed stormwater management BMPs facilities;

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d. A report Information identifying the hydrologic characteristics and structural properties of soils utilized with the installation of stormwater management BMPs facilities per in accordance with the Virginia Stormwater Management Handbook;

~~e. A site plan that identifies the location of receiving state waters and that includes pre-development and post-development conditions for drainage areas, including final drainage patterns and changes to existing contours;~~

f. Comprehensive hydrologic and hydraulic computations of the pre-development and post-development runoff conditions for the required design storms;

g. Good engineering practices and calculations verifying compliance with the water quality and quantity requirements of this chapter;

~~h. A base map of the site which depicts the topography of the site and includes all contributing drainage areas; and downstream receiving areas of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; soil types, forest cover, topography, other vegetative areas; current land use including all existing structures, locations of utilities, roads, and easements; and the location of the natural resources and structures at the site as they exist prior to the commencement of the project. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development. Natural resources and structures on surrounding parcels that may be potentially impacted by the proposed development shall also be shown.~~

~~A map that identifies the limits of clearing and grading, proposed drainage patterns on the site. The map shall also include proposed buildings, roads, parking areas, utilities, and stormwater management measures facilities.~~

~~The map may also show proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads and easements;~~

~~A narrative statement describing the elements set out on the map(s) shall accompany the map(s). The narrative also shall include a description of how the proposed changes would alter the site's natural conditions;~~

h. A map(s) of the site which depicts the topography of the site and includes:

(i) all contributing drainage areas;

(ii) receiving surface waters or karst features into which stormwater will be discharged;

(iii) existing streams, ponds, culverts, ditches, and wetlands;

(iv) soil types, forest cover, other vegetative areas;

(v) current land use including all existing structures and locations of utilities, roads, and easements;

(vi) the location of the natural resources and structures at the site as they exist prior to the commencement of the project;

(vii) sufficient information on adjoining parcels to assess the impacts of stormwater from the site;

(viii) the limits of clearing and grading, and the proposed drainage patterns on the site;

(ix) proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and

(x) proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads and easements;

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~~h. i. Inspection schedules, proposed maintenance agreements and sources for funding the maintenance of all stormwater management BMPs facilities;~~

~~i. i. Proposed right-of-entry agreements or easements from the owner for purposes of inspection and maintenance; and~~

~~j. k. Agreements An agreement between the qualifying local program and the owner that state states that where maintenance or repair of a stormwater management facility located on the owner's property is neglected, or the stormwater management BMP facility becomes a danger to public health or safety, the qualifying local program has the authority to may perform the necessary maintenance and repairs and to recover the costs from the owner; and~~

~~j. Proposed maintenance agreements. Such agreements shall contain provisions for fiscal responsibility and inspection schedules and may also contain an agreement between the qualifying local program and the owner that states that, where maintenance or repair of a stormwater management facility located on the owner's property is neglected or the stormwater management facility becomes a danger to public health or safety, the qualifying local program may perform the necessary maintenance and repairs and recover the costs from the owner; and~~

~~1. Such other information as may be deemed necessary by the qualifying local program.~~

~~2. All Elements of the~~ stormwater management plans shall be appropriately sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with Chapter 4 of Title 54.1 of the Code of Virginia and attendant regulations, and the person responsible for the development project ~~or their~~ ~~designated agent~~ shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.

~~3. Completeness of a plan and required accompanying information~~ shall be determined by the ~~local~~ qualifying ~~local~~ program, and the applicant shall be notified of any determination, within 15 calendar days of receipt.

~~a. If a in the 15 days the~~ plan is deemed to be incomplete based on the criteria set out in subsection B4 of this section, the applicant shall be notified in writing of the reasons the plan is deemed incomplete.

~~b. If a determination of completeness is made and communicated to the applicant within 15 calendar days, an additional 60 calendar days from the date of the communication will be allowed for the review of the plan.~~

~~c. If a determination of completeness~~ is not made and communicated to the applicant within the 15 calendar days, the plan shall be deemed complete as of the date of submission and ~~a maximum of 45 additional a total of 60~~ calendar days ~~from the date of submission~~ will be allowed for the review of the plan.

~~4. Following the determination that a plan is complete, a maximum of 60 calendar days will be allowed for the review of the plan.~~

~~5. 4.~~ During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the development project ~~or their~~ ~~designated agent~~. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this chapter and of the qualifying local program.

~~6. 5.~~ If a plan meeting all requirements of this chapter and of the qualifying local program is submitted and no action is taken within the time specified above, the plan shall be deemed approved.

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C. If allowed by the qualifying local program, an initial stormwater management plan may be submitted for review and approval when it is accompanied by an ~~approved~~ erosion and sediment control plan and preliminary stormwater design for the current and future site work. Such initial plans shall be limited to the initial clearing and grading of the site ~~unless otherwise allowed for by the qualifying local program~~. An initial plan does not supercede the need for the submittal and approval of a complete stormwater management plan ~~and the updating of the SWPPP~~ prior to the commencement of activities beyond initial clearing and grading ~~and other activities approved by the local program~~. The information in the initial plan shall include ~~information detailed in subsection B to the extent required by the qualifying local program and such other information as may be required by the local program~~.

1. A map(s) indicating the location of the natural resources and structures at the site and surrounding area as it exists prior to the commencement of the project. This map(s) shall also include an identification of the limits of clearing and grading, existing and proposed drainage patterns, streams, soil types, forest cover, topography, wetlands, and other vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

The map(s) may also include proposed buildings, roads, parking areas, utilities, and stormwater management measures. The map(s) may also show proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads and easements.

2. A narrative statement describing the elements set out in subsection 1. Acreages shall be provided for the overall site, limits of clearing and grading, wetlands, and riparian areas. The narrative shall include a description of how the proposed changes would alter the site's natural conditions; and

3. Such other information as may be deemed necessary by the qualifying local program.

D. Each approved plan may be modified in accordance with the following:

1. Requests for modifications ~~Modifications~~ to an approved ~~stormwater management~~ plan ~~prior to land disturbance~~ shall be allowed only after the review and written approval of the qualifying local program. The qualifying local program shall have ~~30 60~~ calendar days to respond in writing either approving or disapproving such requests.

2. After a land disturbing activity has commenced, based on an inspection, the permittee may request amendments to the approved plan to address deficiencies. The qualifying local program shall have 15 calendar days to respond in writing either approving or disapproving such request.

~~3 2~~. Based on an inspection, the qualifying local program may require amendments to the approved ~~stormwater management~~ plan to address the noted deficiencies and notify the person responsible for the development project of the required modifications.

### **4VAC50-60-112. Qualifying local program authorization of coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities.**

A. Coverage shall be authorized by the qualifying local program under the VSMP General Permit for Discharges of Stormwater from Construction Activities ~~in a format determined by the Department and~~ in accordance with the following:

1. The applicant must have an approved initial stormwater management plan or an approved stormwater management plan for the land disturbing activity.



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2. The applicant must have submitted a complete registration statement for the VSMP General Permit for Discharges of Stormwater from Construction Activities in accordance with Part VII (4VAC50-60-360 et seq.) and the requirements of the VSMP General Permit for Discharges of Stormwater from Construction Activities which acknowledges that a SWPPP has been developed and will be implemented, and the registration statement must have been reviewed and approved. [Bill S. - Check the permit submittal timing –180 days??.]

3. The applicant must have submitted the required fee form and fee for the registration statement seeking coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities.

4. Applicants submitting registration statements deemed to be incomplete must be notified within ~~3~~ 7 working days of receipt by the qualifying local program that the registration statement is not complete and be notified (i) of what material needs to be submitted to complete the registration statement, and (ii) that the land disturbing activity does not have coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities.

B. Coverage or termination of coverage shall be authorized through a standardized database or other method provided by the Department. Such database shall include, at a minimum, permit number, operator name, activity name, acres disturbed, date of permit coverage, and site address and location as well as date of termination.

B C. Coverage information pertaining to the VSMP General Permit for Discharges of Stormwater from Construction Activities shall be reported to the Department in accordance with 4VAC50-60-126 by the qualifying local program.

**4VAC50-60-114. Qualifying local program inspections.**

A. Inspections of land disturbing activities shall be conducted by a qualifying local program or its designee during construction to ensure that the activity is in compliance with the VSMP General Permit for Discharges of Stormwater from Construction Activities.

B. The person responsible for the development project or their designated agent shall submit an as-built survey for permanent stormwater management facilities, appropriately sealed and signed by a professional in accordance with all minimum standards and requirements pertaining to the practice of that profession pursuant to Chapter 4 of Title 54.1 of the Code of Virginia and attendant regulations, certifying that the stormwater management BMPs facilities have been constructed in accordance with the approved plan. The BMPs shall be inspected for compliance with the as-built survey prior to the release of any associated performance bond or surety. The qualifying local program shall ensure that an as-built survey is on file and the facilities are properly functioning prior to the release of any associated performance bond or surety.

C. The operator(s) of stormwater management BMPs facilities shall be required to conduct inspections in accordance with a recorded inspection schedule and maintenance agreement, or on an annual basis for stormwater management BMPs facilities without a recorded inspection schedule and maintenance agreement, and shall provide be made available a written maintain report to the qualifying local program upon request. Such reports shall may be utilized by the qualifying local program to assess the general status of the facilities and to guide the periodic development or modification of a qualifying local program's alternative inspection schedule.

D. A qualifying local program may establish an alternative inspection program which ensures that stormwater management BMPs are functioning as intended or shall inspect

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stormwater management **BMPs facilities** on an annual basis **or as established by an alternative inspection program that may allow for a less frequent inspection but ensures that the stormwater management facilities are functioning as intended**. Any alternative inspection program shall be:

1. Approved by the Board prior to implementation;
2. Established in writing;
3. Based on a system of priorities that takes into consideration the purpose and type of the facility, ownership **and the existence of a recorded maintenance agreement and inspection schedule**, the contributing drainage area, and downstream conditions;
4. Demonstrated to be an enforceable inspection program **conducted by the qualifying local program or its designee, not to include the property owner,** that meets the intent of the regulations **and ensures that each stormwater management facility is inspected by the qualifying local program or its designee, not to include the owner, at least every five years;** and
5. Documented by inspection records.
- E. Inspection reports shall be generated and kept on file **in accordance with 4VAC50-60-126** for all stormwater management **BMPs facilities** inspected by the qualifying local program.
- F. The operator shall allow a right of entry to a representative of the qualifying local program to conduct inspections of the project.

**4VAC50-60-116. Qualifying local program enforcement.**

- A. A qualifying local program **shall may** incorporate the following components:
  1. Informal and formal administrative enforcement procedures including:
    - a. Verbal warning and inspection reports;
    - b. Notice of corrective action;
    - c. Consent special orders and civil charges in accordance with §§ 10.1-603.2:1 subsection 7 and 10.1-603.14 subsection D2;
    - d. Notice to comply in accordance with § 10.1-603.11;
    - e. Special orders in accordance with § 10.1-603.2:1 subsection 7;
    - f. Emergency special orders in accordance with § 10.1-603.2:1 subsection 7; and
    - g. Public notice and comment period pursuant to 4 VAC 50-60-660.
  2. Civil and criminal judicial enforcement procedures including:
    - a. Schedule of civil penalties set out in subsection D;
    - b. Criminal penalties in accordance with § 10.1-603.14 subsections B and C; and
    - c. Injunctions in accordance with §§ 10.1-603.12:4 and 10.1-603.14 subsection D1
- B. A qualifying local program shall develop policies and procedures that outline the steps to be taken regarding enforcement actions under the Stormwater Management Act and attendant regulations and the local ordinance.
- C. A qualifying local program may utilize the Department's Stormwater Management Enforcement Manual as guidance in establishing policies and procedures.
- D. **A qualifying local program shall utilize the** Schedule of Civil Penalties set by the Board in accordance with § 10.1-603.14 subsection A. The Board intends that these civil penalties generally be applied after other enforcement remedies have been unsuccessful, in egregious situations, or for repeat offenders.

<u>Violations and Frequency of Occurrence *</u>	<u>Maximum</u> <u>\$\$/occurrence (occur.)/day</u>	<u>Recommended Minimum</u> <u>\$\$/occurrence/day</u>
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<u>No Permit Registration</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$10,000/ occur./ day(s)</u>
<u>No Stormwater Pollution Prevention Plan (SWPPP)</u> <u>[No SWPPP components including erosion and sediment (E&amp;S Control Plan)]</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$10,000/ occur./ day(s)</u>
<u>No approved E&amp;S Control Plan</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$10,000/ occur./ day(s)</u>
<u>Failure to install stormwater Best Management Practices (BMPs) or E&amp;S controls**</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$5,000/ occur./ day(s)</u>
<u>Failure to conduct required inspections</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$1,000/ occur./ day(s)</u>
<u>Operational deficiencies (e.g., failure to initiate stabilization measures as soon as practicable; failure to implement control measures for construction debris; incomplete SWPPP; SWPPP not onsite; Stormwater BMPs or erosion and sediment controls improperly installed or maintained; incomplete, improper or missed inspections.)</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$500/ occur./ day(s)</u>

\* The frequency of occurrence is a maximum of per day per violation.

\*\* Each BMP and E&S control not installed constitutes a separate violation

E. Pursuant to § 10.1-603.2:1 subsection 2, authorization to administer a qualifying local program shall not remove from the Board the authority to enforce the provisions of the Virginia Stormwater Management Act and attendant regulations.

**4VAC50-60-118. Hearings.**

A qualifying local program shall ensure that any permit applicant or permittee shall have a right to a hearing pursuant to § 10.1-603.12:6 and shall ensure that all hearings held under this chapter shall be conducted in accordance with § 10.1-603.12:7 or as otherwise provided by law.

**4VAC50-60-122. Qualifying local program: exceptions.**

A. A person may request an exception to the provisions of Part II (4VAC50-60-40 et seq.). A qualifying local program may grant exceptions through an administrative process. A request for an exception, including the reasons for making the request, shall be submitted, in writing, to the qualifying local program. An exception may be granted, provided that: (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the Act and this chapter are preserved, (iii) granting the exception will not confer on the permittee any special privileges that are denied to other permittees who present similar circumstances, and (iv)



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exception requests are not based upon conditions or circumstances that are self-imposed or self-created.

B. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this chapter.

C. Under no circumstance shall the qualifying local program grant an exception to the requirement that the land disturbing activity obtain a permit.

D. A record of all exceptions granted shall be maintained by the qualifying local program and reported to the Department in accordance with 4VAC50-60-126.

**4VAC50-60-124. Qualifying local program: BMP Stormwater Management Facility maintenance.**

A. Responsibility for the operation and maintenance of stormwater management BMPs facilities in accordance with this chapter, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor. If portions of the land are to be transferred or conveyed, legally binding arrangements shall be made to pass maintenance responsibilities to successors in title. These arrangements shall designate for each project stormwater management facility the property owner, governmental agency, or other legally established entity to that will be permanently responsible for maintenance. These arrangements shall also preserve the rights of the qualifying local program pursuant to an agreement with the owner formed under 4VAC50-60-108 subsection k.

B. In the case of developments where lots are to be transferred or conveyed, permanent arrangements between the seller and the buyer, which are legally binding and satisfactory to the qualifying local program, shall be made to ensure continued performance in accordance with this chapter.

C. Where maintenance or repair is neglected, or the stormwater management BMPs facility becomes a danger to public health or safety, the qualifying local program has the authority to perform the work and to recover the costs from the owner may take action pursuant to an agreement with the owner formed under 4VAC50-60-108 subsection k.

D. The qualifying local program shall require right-of-entry agreements or easements from the owner for purposes of inspection and maintenance.

E. The qualifying local program shall ensure that the flow and drainage patterns associated with a permanent BMPs facility are maintained to the extent of law. Proposed changes to the flow and drainage patterns must be approved by the qualifying local program.

**4VAC50-60-126. Qualifying local program: reporting and record keeping.**

~~A. A qualifying local program shall provide permit coverage information to the Department on a weekly basis that includes permit number, operator name, activity name, acres disturbed, date of permit coverage, and site address and location.~~

~~A. B. A. Annually. On a quarterly on a fiscal year~~ basis, a qualifying local program shall report to the Department by October 1<sup>st</sup> of each year in a format provided by the Department. The information to be provided shall include but not be limited to the following:

~~1. Information on projects permitted during the quarter fiscal year to include permit number, operator name, activity name, acres disturbed, and date of permit coverage;~~

~~2. Information on permitted projects terminated during the quarter fiscal year to include permit number, operator name, activity name, and date of permit termination;~~

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3 1. Information on each permanent BMP stormwater management facility accepted during the quarter fiscal year to include type of BMP stormwater management facility, GPS coordinates, acres treated, and the state surface waters into which the BMP stormwater management facility will discharge;

4 2. Number of VSMP General Permit for Discharges of Stormwater from Construction Activities projects inspected and the total number of inspections by acreage categories determined by the Department during the quarter fiscal year;

5 3. Number and type of enforcement actions during the quarter fiscal year; and

6 4. Number of exceptions applied for and the number granted or denied during the quarter fiscal year.

B. A qualifying local program shall make information set out in subsection B available to the Department upon request.

B.D.C. A qualifying local program shall keep records in accordance with the following:

1. Permit files shall be kept for 5 years after permit termination. After 5 years, the registration statements, notices of coverage and notices of termination shall be archived in accordance with the regulations of the Library of Virginia.

2. Stormwater maintenance facility inspection reports shall be kept on file by the qualifying local program for 5 years from the date of creation and shall be archived in accordance with the regulations of the Library of Virginia.

2 3. BMP Stormwater maintenance agreements, design standards and specifications, post-construction surveys, inspection reports, and maintenance records shall be maintained in perpetuity.

3 4. Other records shall be maintained in accordance with the regulations of the Library of Virginia. [WHAT IS THIS STANDARD.]

### **Part IIIB**

### **Department of Conservation and Recreation administered local programs**

#### **4VAC50-60-128. Authority and Applicability.**

In the absence of a qualifying local program, the Department shall administer the local stormwater management program in a locality in accordance with §10.1-603.3 subsection C. This part specifies the minimum technical criteria for a Department-administered local stormwater management program in accordance with the Virginia Stormwater Management Act, §10.1-603.2 et seq., and the standards and criteria established in these regulations by the Board pursuant to its authority under that article. Such criteria include but are not limited to administration, plan review, issuance of coverage under the General Virginia Stormwater Management Program (VSMP) Permit for Discharges of Stormwater from Construction Activities, issuance of individual permits, inspection, enforcement, and education and outreach components.

#### **4VAC50-60-132. Technical criteria.**

A. The Department administered local stormwater management programs shall require compliance with the provisions of Part II (4VAC50-60-40 et seq.) unless an exception is granted

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pursuant to 4VAC50-60-148 and shall comply with the requirements of 4VAC50-60-460 subsection L.

B. When reviewing a federal project, the Department shall apply the provisions of this chapter.

C. Nothing in this chapter shall be construed as limiting the rights of other federal and state agencies to impose stricter technical criteria or other requirements as allowed by law.

**4VAC50-60-134. Administrative authorities.**

A. The Department is the permit issuing authority, plan approving authority, and the enforcement authority.

B. The Department or its designee is the plan reviewing authority and the inspection authority.

C. The Department shall assess and collect fees.

D. The Department may require the submission of a reasonable performance bond or other financial surety in accordance with the criteria set forth in §10.1-603.8 prior to the issuance of coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities and in accordance with the following:

1. The amount of the installation performance security shall be the total estimated construction cost of the stormwater management BMPs approved under the stormwater management plan, plus 25%;

2. The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain appropriate actions which may be required in accordance with the approved stormwater management plan;

3. Upon failure by the applicant to take such action as required, the Department may act and may collect from the applicant the difference should the amount of the reasonable cost of such action exceed the amount of the security held; and

4. Within sixty days of the completion of the requirements and conditions of the VSMP General Permit for Discharges of Stormwater from Construction Activities and the Department's acceptance of the Notice of Termination, such bond, cash escrow, letter of credit or other legal arrangement shall be refunded to the applicant.

**4VAC50-60-136. Stormwater management plan review.**

A. The Department shall require stormwater management plans for review and approval prior to commencement of land disturbing activities.

B. The Department shall approve or disapprove a stormwater management ~~plans~~ plan and required accompanying information according to the following:

1. Stormwater management plan review shall begin upon submission of a complete plan. An initial stormwater management plan or clearing and grading plan shall not be considered a complete plan. A complete plan shall at a minimum include the following elements:

a. The location of all points of stormwater discharge, downstream receiving surface waters, and pre-development and post-development conditions for drainage areas, including final drainage patterns and changes to existing contours;

a. b. Contact Information including the name, address, and telephone number of the property owner and the operator and the tax reference number and parcel number of the property or properties affected;

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b c. A narrative description of the site and proposed stormwater management BMPs facilities and the mechanism through which the BMPs facilities will be operated and maintained during and after construction activity;

e d. The location and the design of the proposed stormwater management BMPs facilities;

d e. A report identifying the hydrologic characteristics and structural properties of soils utilized with the installation of stormwater management BMPs facilities per the Virginia Stormwater Management Handbook;

e. A site plan that identifies the location of receiving state waters and that includes pre-development and post-development conditions for drainage areas, including final drainage patterns and changes to existing contours. At a minimum, this will include a topographic base map utilizing 5 foot or less contour intervals of the site which includes all contributing drainage areas and downstream receiving areas of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown necessary to meet the requirements of this chapter;

f. Comprehensive hydrologic and hydraulic computations of the pre-development and post-development runoff conditions for the required design storms;

g. Good engineering practices and calculations verifying compliance with the water quality and quantity requirements of this chapter;

h. A base map of the site which depicts the topography of the site and includes all contributing drainage areas and downstream receiving areas of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; soil types, forest cover, topography, other vegetative areas; current land use including all existing structures; locations of utilities, roads, and easements; and the location of the natural resources and structures at the site as they exist prior to the commencement of the project. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development. Natural resources and structures on surrounding parcels that may be potentially impacted by the proposed development shall also be shown.

A map that identifies the limits of clearing and grading, proposed drainage patterns on the site. The map shall also include proposed buildings, roads, parking areas, utilities, and stormwater management measures. The map may also show proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads and easements.

A narrative statement describing the elements set out on the map(s) shall accompany the map(s). The narrative also shall include a description of how the proposed changes would alter the site's natural conditions;

h i. Inspection schedules, proposed maintenance agreements and sources for funding the maintenance of all stormwater management BMPs facilities;

i j. Proposed right-of-entry agreements or easements from the owner for purposes of inspection and maintenance; and

j k. Agreements An agreement between the Department and the owner that state states that where maintenance or repair of a stormwater management facility located on the owner's property is neglected, or the stormwater management BMP facility becomes a danger to public

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health or safety, the Department ~~has the authority to may~~ perform the necessary maintenance and repairs and to recover the costs from the owner; ~~and~~

~~1. Such other information as may be deemed necessary by the Department.~~

~~2. All Elements of the~~ stormwater management plans shall be appropriately sealed and signed by a professional in adherence to all minimum standards and requirements pertaining to the practice of that profession in accordance with Chapter 4 of Title 54.1 of the Code of Virginia and attendant regulations, and the person responsible for the development project ~~or their~~ ~~designated agent~~ shall certify that all land clearing, construction, land development and drainage will be done according to the approved plan.

3. Completeness of a plan ~~and required accompanying information~~ shall be determined by the Department, and the applicant shall be notified of any determination, within 30 calendar days of receipt. If a plan is deemed to be incomplete based on the criteria setout in subsection ~~B4~~ of this section, the applicant shall be notified in writing of the reasons the plan is deemed incomplete. If a determination is not made and communicated to the applicant within the 30 calendar days, the plan shall be deemed complete as of the date of submission and a maximum of 30 additional calendar days will be allowed for the review of the plan.

4. Following the determination that a plan is complete, a maximum of 60 calendar days will be allowed for the review of the plan.

5. During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the development project ~~or their~~ ~~designated agent~~. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this chapter and of the Department's stormwater management program.

6. If a plan meeting all requirements of this chapter and of the Department's stormwater management program is submitted and no action is taken within the time specified above, the plan shall be deemed approved.

C. Each approved plan may be modified in accordance with the following:

~~1. Requests for modifications~~ ~~Modifications~~ to an approved plan ~~prior to land disturbance~~ shall be allowed only after the review and written approval of Department. The Department shall have ~~30 60~~ calendar days to respond in writing either approving or disapproving such requests.

~~2. After a land disturbing activity has commenced, based on an inspection, the permittee may request amendments to the approved plan to address deficiencies. The Department shall have 15 calendar days to respond in writing either approving or disapproving such request.~~

~~3 2.~~ Based on an inspection, the Department may require amendments to the approved plan to address the noted deficiencies and notify the person responsible for the development project of the required modifications.

**4VAC50-60-138. Issuance of coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities.**

The Department shall issue coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities in accordance with the following:

1. The applicant must have a Department approved stormwater management plan for the land disturbing activity.

2. The applicant must have submitted a complete registration statement for the VSMP General Permit for Discharges of Stormwater from Construction Activities in accordance with



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Part VII (4VAC50-60-360 et seq.) and the requirements of the VSMP General Permit for Discharges of Stormwater from Construction Activities, which acknowledges that a SWPPP has been developed and will be implemented, and the registration statement must have been reviewed and approved.

3. The applicant must have submitted the required fee form and fee for the registration statement seeking coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities.

4. Applicants submitting registration statements deemed to be incomplete must be notified within 10 working days of receipt by the Department that the registration statement is not complete and be notified (i) of what material needs to be submitted to complete the registration statement, and (ii) that the land disturbing activity does not have coverage under the VSMP General Permit for Discharges of Stormwater from Construction Activities.

5. Individual permits for qualifying land disturbing activities may be issued at the discretion of the Board or its designee pursuant to 4VAC50-60-410 subsection B3.

**4VAC50-60-142. Inspections.**

A. Inspections of land disturbing activities shall be conducted by the Department or its designee during construction to ensure that the activity is in compliance with the VSMP General Permit for Discharges of Stormwater from Construction Activities.

B. The person responsible for the development project or their designated agent shall submit an as-built survey, appropriately sealed and signed by a professional in accordance with all minimum standards and requirements pertaining to the practice of that profession pursuant to Chapter 4 of Title 54.1 of the Code of Virginia and attendant regulations, certifying that the stormwater management BMPs facilities have been constructed in accordance with the approved plan. The BMPs shall be inspected for compliance with the as-built survey prior to the release of any associated performance bond or surety. The Department shall ensure that an as-built survey is on file and the facilities are properly functioning prior to the release of any associated performance bond or surety.

C. The operator (s) of stormwater management BMPs facilities shall be required to conduct inspections in accordance with a recorded inspection schedule and maintenance agreement, or on an annual basis for stormwater management BMPs facilities without a recorded inspection schedule and maintenance agreement, and shall provide a written report to the Department. Such reports shall be utilized by the Department to assess the general status of the facilities and to guide the development or periodic modification of the Department's alternative inspection schedule.

D. The Department or its designee may establish an alternative inspection program which ensures that stormwater management BMPs are functioning as intended or shall inspect stormwater management BMPs facilities on an annual basis or as established by an alternative inspection program that may allow for a less frequent inspection but ensures that the stormwater management facilities are functioning as intended. Any alternative inspection program shall be:

1. Approved by the Board prior to implementation;
2. Established in writing;
3. Based on a system of priorities that takes into consideration the purpose and type of the facility, ownership and the existence of a recorded maintenance agreement and inspection schedule, the contributing drainage area, and downstream conditions;

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4. Demonstrated to be an enforceable inspection program conducted by the qualifying local program or its designee, not to include the property owner, that meets the intent of the regulations and ensures that each stormwater management facility is inspected by the qualifying local program or its designee, not to include the owner, at least every five years; and

5. Documented by inspection records.

E. Inspection reports shall be generated and kept on file for all stormwater management BMPs facilities inspected by the Department or its designee.

F. The operator shall allow a right of entry to a representative of the Department to conduct inspections of the project.

**4VAC50-60-144. Enforcement.**

A. A Department administered local program shall contain the following components:

1. Informal and formal administrative enforcement procedures including:

a. Verbal warning and inspection reports;

b. Notice of corrective action;

c. Consent special orders and civil charges in accordance with §§ 10.1-603.2:1 subsection 7 and 10.1-603.14 subsection D2;

d. Notice to comply in accordance with § 10.1-603.11;

e. Special orders in accordance with § 10.1-603.2:1 subsection 7;

f. Emergency special orders in accordance with § 10.1-603.2:1 subsection 7; and

g. Public notice and comment period pursuant to 4 VAC 50-60-660.

2. Civil and criminal judicial enforcement procedures including:

a. Schedule of civil penalties setout in subsection C;

b. Criminal penalties in accordance with § 10.1-603.14 subsections B and C; and

c. Injunctions in accordance with §§ 10.1-603.12:4 and 10.1-603.14 subsection D1.

B. The Department's Stormwater Management Enforcement Manual shall serve as guidance to be utilized in enforcement actions under the Stormwater Management Act and attendant regulations.

C. Schedule of Civil Penalties set by the Board in accordance with § 10.1-603.14 subsection A. The Board intends that these civil penalties generally be applied after other enforcement remedies have been unsuccessful, in egregious situations, or for repeat offenders.

<u>Violations and Frequency of Occurrence *</u>	<u>Maximum \$\$/occurrence (occur.)/day</u>	<u>Recommended Minimum \$\$/occurrence/day</u>
<u>No Permit Registration</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$10,000/ occur./ day(s)</u>
<u>No Stormwater Pollution Prevention Plan (SWPPP)</u> <u>[No SWPPP components including erosion and sediment (E&amp;S Control Plan)]</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$10,000/ occur./ day(s)</u>
<u>No approved E&amp;S Control Plan</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$10,000/ occur./ day(s)</u>

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<u>Failure to install stormwater Best Management Practices (BMPs) or E&amp;S controls**</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$5,000/ occur./ day(s)</u>
<u>Failure to conduct required inspections</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$1,000/ occur./ day(s)</u>
<u>Operational deficiencies (e.g., failure to initiate stabilization measures as soon as practicable; failure to implement control measures for construction debris; incomplete SWPPP; SWPPP not onsite; Stormwater BMPs or erosion and sediment controls improperly installed or maintained; incomplete, improper or missed inspections.)</u>	<u>Up to \$32,500/ occur./ day(s)</u>	<u>\$500/ occur./ day(s)</u>

\* The frequency of occurrence is a maximum of per day per violation.

\*\* Each BMP and E&S control not installed constitutes a separate violation

**4VAC50-60-146. Hearings.**

A. Any permit applicant or permittee shall have a right to a hearing pursuant to § 10.1-603.12:6 and all hearings held under this chapter shall be conducted in accordance with § 10.1-603.12:7 or as otherwise provided by law.

**4VAC50-60-148. Exceptions.**

A. A person may request an exception to the provisions of Part II (4VAC50-60-40 et seq.). A request for an exception **including the reasons for making the request** shall be submitted, in writing, to the Department. An exception may be granted **by the Department**, provided that: (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the Act and this chapter are preserved, (iii) granting the exception will not confer on the permittee any special privileges that are denied to other permittees who present similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created.

B. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this chapter.

C. Under no circumstance shall the Department grant an exception to the requirement that the land disturbing activity obtain a permit.

D. A record of all exceptions granted shall be maintained by the Department.

**4VAC50-60-152. **BMP Stormwater Management Facility** maintenance.**

A. Responsibility for the operation and maintenance of stormwater management **BMPs facilities** in accordance with this chapter, unless assumed by a governmental agency, shall remain with the property owner and shall pass to any successor. If portions of the land are to be **sold transferred or conveyed**, legally binding arrangements shall be made to pass maintenance responsibilities to successors in title. These arrangements shall designate for each **project stormwater management facility** the property owner, governmental agency, or other legally

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established entity ~~to that will~~ be permanently responsible for maintenance. ~~These arrangements shall also preserve the rights of the Department pursuant to an agreement with the owner formed under 4VAC50-60-108 subsection k.~~

B. In the case of developments where lots are to be transferred or conveyed, permanent arrangements between the seller and the buyer, which are legally binding and satisfactory to the Department, shall be made to ensure continued performance in accordance with this chapter.

C. Where maintenance or repair is neglected, or the stormwater management ~~BMPs facility~~ becomes a danger to public health or safety, the Department ~~has the authority to perform the work and to recover the costs from the owner~~ ~~may take action pursuant to an agreement with the owner formed under 4VAC50-60-108 subsection k.~~

D. The Department shall require right-of-entry agreements or easements, acceptable to the Department, from the owner for purposes of inspection and maintenance.

E. The Department shall ensure that the flow and drainage patterns associated with a permanent ~~BMPs facility~~ ~~is are~~ maintained ~~to the extent of law~~ ~~and proposed changes to the flow and drainage patterns must be approved by the Department.~~

**4VAC50-60-154. Reporting and record keeping.**

A. The Department shall maintain a current database of permit coverage information for all projects that includes permit number, operator name, activity name, acres disturbed, date of permit coverage, and site address and location.

~~A B.~~ ~~Annually.~~ ~~On a quarterly~~ ~~on a fiscal year~~ basis, the Department shall compile the following information:

1. Information on projects permitted during the ~~quarter~~ ~~fiscal year~~ to include permit number, operator name, activity name, acres disturbed, and date of permit coverage;

2. Information on permitted projects terminated during the ~~quarter~~ ~~fiscal year~~ to include permit number, operator name, activity name, and date of permit termination;

3. Information on each permanent ~~BMP~~ ~~stormwater management facility~~ accepted during the ~~quarter~~ ~~fiscal year~~ to include type of ~~BMP~~ ~~stormwater management facility~~, GPS coordinates, acres treated, and the ~~state~~ ~~surface~~ waters into which the ~~BMP~~ ~~stormwater management facility~~ will discharge;

4. Number of VSMP General Permit for Discharges of Stormwater from Construction Activities projects and individual permit projects inspected and the total number of inspections during the ~~quarter~~ ~~fiscal year~~;

5. Number and type of VSMP general permit and individual permit enforcement actions during the ~~quarter~~ ~~fiscal year~~; and

6. Number of exceptions applied for and the number granted or denied during the ~~quarter~~ ~~fiscal year~~.

~~B C.~~ The Department shall keep records in accordance with the following:

1. Permit files shall be kept for 5 years after permit termination. After 5 years, the registration statements, notices of coverage and notices of termination shall be archived in accordance with the regulations of the Library of Virginia.

2. Stormwater maintenance facility inspection reports shall be kept on file by the Department for 5 years from the date of creation and shall be archived in accordance with the regulations of the Library of Virginia.

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~~2.3.~~ **BMP Stormwater** maintenance agreements, design standards and specifications, post-construction surveys, **inspection reports**, and maintenance records shall be maintained in perpetuity.

~~3.4.~~ Other records shall be maintained in accordance with the regulations of the Library of Virginia.

### **Part IIIC**

#### **Department of Conservation and Recreation qualifying local program review procedures**

##### **4VAC50-60-156. Authority and Applicability.**

This part specifies the criteria that the Department will utilize in reviewing a locality's administration of a qualifying local program pursuant to §10.1-603.12 following the Board's approval of such program in accordance with the Virginia Stormwater Management Act and these regulations.

##### **4VAC50-60-157. Stormwater Management Program Review.**

A. The Department shall review each Board-approved qualifying local program once every five years on a review schedule approved by the Board. **In addition, the The** Department may **be requested by the locality or the general public to** review a qualifying local program on a more frequent basis **if deemed necessary**.

B. The review of a Board-approved qualifying local program shall consist of the following:

1. A personal interview between Department staff and the qualifying local program administrator or his designee;

2. A review of the local ordinance(s) and other applicable documents;

3. A review of plans approved by the qualifying local program and consistency of application **including exceptions allowed**;

**4. An accounting of fees received and of the financing of the program;**

**4.5.** An inspection of regulated activities; and

**5.6.** A review of enforcement actions.

C. To the extent practicable, the Department will coordinate the reviews with other local government program reviews to avoid redundancy.

**D. The Department shall provide its recommendations to the Board within 90 days of the completion of a review.**

~~D E.~~ The **Department Board** shall determine if the qualifying local program and ordinance are consistent with the **Act and** state stormwater management regulations and notify the qualifying local program of its findings.

~~E F.~~ If the **Department Board** determines that the deficiencies noted in the review will cause the qualifying local program to be inconsistent with the Stormwater Management Act and its attendant regulations, the **Department Board** shall notify the qualifying local program concerning the deficiencies and provide a reasonable period of time for corrective action to be taken. **If the qualifying local program fails to take the corrective action within the specified time, the Department may formally request** the Board **to may** take action pursuant to §10.1-603.12 of the Code of Virginia.



**Part IIID**

**Virginia Soil and Water Conservation Board authorization  
procedures for qualifying local programs**

**4VAC50-60-158. Authority and Applicability.**

Section 10.1-603.4 subsection 1 requires that the Board establish standards and procedures for authorizing a locality to administer a stormwater management program. In accordance with that requirement, and with the further authority conferred upon the Board by the Virginia Stormwater Management Act, §10.1-603.2 et seq., this part specifies the procedures the Board will utilize in authorizing a locality to administer a qualifying local program.

**4VAC50-60-159. Authorization Procedures for Qualifying Local Programs.**

A. A locality required to adopt a program in accordance with §10.1-603.3 subsection A or those electing to seek authorization to administer a qualifying local program must submit to the Board an application package which, at a minimum, contains the following:

1. The local program ordinance(s);
2. A funding and staffing plan;
3. The policies and procedures, including but not limited to, agreements with Soil and Water Conservation Districts, adjacent localities, or other entities, for the administration, plan review, permit issuance, inspection and enforcement components of the program; and
4. The process by which the locality will collect permit fees and submit for deposit on a monthly basis to the Virginia Stormwater Management Fund.

B. Any locality seeking authorization to administer a qualifying local program pursuant to this chapter must be administering an Erosion and Sediment Control program that has been found by the Board to be consistent or conditionally consistent with the Erosion and Sediment Control Law, § 10.1-560 et seq.

C. Upon receipt of an application package, the Board or its designee shall have 15 days to determine the completeness of the application package. If an application package is deemed to be incomplete based on the criteria set out in subsection A of this section, the Board or its designee must identify in writing the reasons the application package is deemed deficient.

D. Upon receipt of a complete application package, the Board or its designee shall have a maximum of 90 calendar days for the review of the application package. During the 90-day review period, the Board or its designee shall either approve or disapprove the application and communicate its decision to the locality in writing. If the application is not approved, the reasons for not approving the application shall be provided to the locality in writing. Approval or denial shall be based on the application's compliance with the Virginia Stormwater Management Act and these regulations.

E. A locality required to adopt a qualifying local program in accordance with §10.1-603.3 subsection A shall submit a complete application package for the Board's review within 12 months of the effective date of these regulations and shall adopt a qualifying local program consistent with the Act and this chapter no sooner than 12 months but no later than 18 months of the effective date of these regulations.

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F. A locality not required to adopt a qualifying local program in accordance with §10.1-603.3 subsection A but electing to adopt a qualifying local program shall notify the Board in accordance with the following:

1. A locality electing to adopt a qualifying local program may notify the Board of its intention within six months of the effective date of these regulations. Such locality shall submit a complete application package for the Board's review within 12 months of the effective date of these regulations and shall adopt a qualifying local program within 18 months of the effective date of these regulations.

2. A locality electing to adopt a qualifying local program that does not notify the Board within the initial six-month period of its intention may thereafter notify the Board at any regular meeting of the Board. Such notification shall include a proposed schedule for adoption of a qualifying local program within 12 months.

G. The Department shall administer the responsibilities of the Act and this chapter in any locality in which a qualifying local program has not been adopted. The Department shall develop a schedule, to be approved by the Board, for implementation of the requirements of this chapter in such localities. Such schedule shall begin no later than 18 months following the effective date of these regulations and shall be based upon considerations including the typical number of permitted projects located within a locality, total number of acres disturbed by such permitted projects, and such other considerations as may be deemed necessary by the Board.

**[DO WE NEED PROCEDURES FOR MOVING A PROGRAM FROM THE STATE TO A LOCALITY]**

**[PROVISIONAL PROGRAM APPROVAL]**

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### Part XIII

#### Fees

##### 4VAC50-60-700. Purpose.

Sections 10.1-603.4 and 10.1-603.5 of the Code of Virginia authorize the establishment of a statewide fee schedule for stormwater management and state agency projects. ~~These regulations in this~~ This part establish ~~establishes~~ the fee assessment and ~~the collection system and distribution systems for those fees.~~

##### 4VAC50-60-710. Definitions. Repealed

##### ~~4VAC50-60-710. Definitions.~~

~~The following words and terms used in this chapter have the following meanings:~~

~~"Permit applicant" means for the purposes of this part any person submitting a permit application for issuance, reissuance, or modification, except as exempted by 4VAC50-60-740, of a permit or filing a registration statement or permit application for coverage under a general permit issued pursuant to the Act and this chapter.~~

~~"Permit application" means for the purposes of this part the forms approved by the Virginia Soil and Water Conservation Board for applying for issuance or reissuance of a permit or for filing a registration statement or application for coverage under a general permit issued in response to the Act and this chapter. In the case of modifications to an existing permit requested by the permit holder and not exempted by 4VAC50-60-740, the application shall consist of the formal written request and any accompanying documentation submitted by the permit holder to initiate the modification.~~

##### 4VAC50-60-720. Authority.

The authority for this part is pursuant to §§10.1-603.4 and 10.1-603.4:1 of the Code of Virginia and enactment clause 7 governing the transfer of the relevant provisions of Fees for Permits and Certificates Regulations, 9VAC25-20, in accordance with Chapter 372 of the 2004 Virginia Acts of Assembly.

##### 4VAC50-60-730. Applicability.

A. This part applies to:

1. ~~All permit applicants for issuance of persons seeking coverage of a MS4 system under a new permit or reissuance of an existing permit, except as specifically exempt under 4VAC50-60-740 A.~~ The fee due shall be as specified under 4VAC50-60-800 ~~or 4VAC50-60-820.~~

2. All permittees who request that an existing MS4 individual permit be modified, except as specifically exempt under 4VAC50-60-740 ~~A+~~ of this chapter. The fee due shall be as specified under 4VAC50-60-810.

3. All persons seeking coverage under the General Permit for Discharges of Stormwater From Construction Activities or a person seeking an Individual Permit for Discharges of Stormwater From Construction Activities. The fee due shall be as specified under 4VAC50-60-820.

4. All permittees who request modifications to or transfers of their existing registration statement for coverage under a General Permit for Discharges of Stormwater From Construction

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Activities or of an Individual Permit for Discharges of Stormwater From Construction Activities. The fee due shall be as specified under 4VAC50-60-825 in addition to any additional fees necessary pursuant to 4VAC50-60-820 due to an increase in acreage.

~~B. An applicant for a permit involving a permit that is to be revoked and reissued~~ Persons who are applicants for an individual VSMP Municipal Separate Storm Sewer System permit as a result of existing permit revocation shall be considered an applicant for a new permit. The fee due shall be as specified under 4VAC50-60-800.

Persons whose coverage under the General Permit for Discharges of Stormwater From Construction Activities has been revoked shall reapply for an Individual Permit for Discharges of Stormwater From Construction Activities. The fee due shall be as specified under 4VAC50-60-820.

~~C. Permit maintenance fees~~ Permit and permit coverage maintenance fees may apply to each Virginia Stormwater Management Permit (VSMP) permit holder. The fee due shall be as specified under 4VAC50-60-830.

### **4VAC50-60-740. Exemptions.**

A. No permit application fees will be assessed to:

1. Permittees who request minor modifications ~~or minor amendments~~ to permits as defined in 4VAC50-60-10 or other minor amendments at the discretion of the local stormwater management program.

2. Permittees whose permits are modified or amended at the initiative of the permit-issuing authority. This does not include errors in the application identified by the local stormwater management program. [what if the locality discovers inaccuracies in the application, such as different size]

B. Permit modifications resulting in changes to stormwater management plans that require additional review by the local stormwater management program shall not be exempt pursuant to this section and shall be subject to fees specified under 4VAC50-60-825.

### **4VAC50-60-750. Due dates for Virginia Stormwater Management Program (VSMP) Permits.**

~~A. Permit application fees for all new permit applications are due on the day a permit application is submitted and shall be~~ Requests for a permit, permit modification, or general permit coverage shall not be processed until the fees required pursuant to this part are paid in accordance with 4VAC50-60-760. ~~Applications will not be processed without payment of the required fee.~~ [Check timing of fee]

~~B. A permit application fee is due on the day a permit application is submitted for a major modification that occurs (and becomes effective) before the stated permit expiration date. There is no application fee for a major modification or amendment that is made at the permit-issuing authority's initiative.~~

~~CB. Permit~~ Individual permit or general permit coverage maintenance fees shall be paid annually to the Department or the qualifying local program, as applicable, ~~permit-issuing authority by October 1 of each year the anniversary date of permit issuance or general permit coverage.~~ No permit will be reissued or automatically continued without payment of the required fee. Individual permit or general permit coverage maintenance fees shall be applied until a Notice of Termination has been received and approved.

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MS4 permittees currently paying maintenance fees on October 1 of each year shall continue to pay the maintenance fee on October 1 until their current permit expires. Upon reissuance of the MS4 permit, maintenance fees shall be paid on the anniversary date of the reissued permit.

~~Effective April 1, 2005, any permit holder whose permit is effective as of April 1 of a given year (including permits that have been administratively continued) shall pay the permit maintenance fee or fees to the permit-issuing authority by October 1 of that same year.~~

### **4VAC50-60-760. Method of payment.**

A. Fees, as applicable, shall be submitted electronically or be paid by check, draft or postal money order payable to:

~~1. the~~ The Treasurer of Virginia, for a MS4 individual or general permit or for a coverage issued by the Department under the General Permit for Discharges of Stormwater From Construction Activities or Individual Permit for Discharges of Stormwater From Construction Activities, to the permit-issuing authority, and must be in U.S. currency, except that agencies and institutions of the Commonwealth of Virginia may submit Interagency Transfers for the amount of the fee. To pay electronically, go to the ~~Department of Conservation and Recreation's~~ stormwater management section of the Department's Department of Conservation and Recreation's public website at <http://www.dcr.virginia.gov>. Fees not submitted electronically shall be sent to the following address: ~~Virginia Department of Conservation and Recreation, Division of Finance, Accounts Payable, 203 Governor Street, Richmond, VA 23219.~~

Virginia Department of Conservation and Recreation

Division of Finance, Accounts Payable

203 Governor Street

Richmond, VA 23219

~~2. The qualifying local program, for coverage authorized by the qualifying local program under the General Permit for Discharges of Stormwater From Construction Activities, and must be in U.S. currency.~~

B. Required information for permits or permit coverage: All applicants for new permit issuance, permit reissuance, or permit modification shall submit the following information along with the fee payment or utilize the Department of Conservation and Recreation Permit Application Fee Form:

1. Applicant name, address and daytime phone number.  
2. Applicant Federal Identification Number (FIN), if applicable.  
3. The name of the facility/activity, and the facility/activity location.  
4. The type of permit applied for.  
5. Whether the application is for a new permit issuance, permit reissuance or permit modification.

6. The amount of fee submitted.

7. The existing permit number, if applicable.

**8. Other information as required by the local stormwater management program.**

### **4VAC50-60-770. Incomplete payments and late payments.**

All incomplete payments will be deemed as nonpayments. The Department or the qualifying local program, as applicable, shall provide notification to the applicant of any incomplete payments.



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Interest may be charged for late payments at the underpayment rate set out by the U.S. Internal Revenue Service established pursuant to §6621(a)(2) of the Internal Revenue Code. This rate is ~~prescribed~~ set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate.

A 10% late payment fee may be charged to any delinquent (over 90 days past due) account.

The ~~permit-issuing authority~~ Department and the qualifying local program ~~are~~ is entitled to all remedies available under the Code of Virginia in collecting any past due amount ~~and may recover any attorney's fees and/or other administrative costs incurred in pursuing and collecting any past due amount.~~

### 4VAC50-60-780. Deposit and use of fees.

~~All fees collected by the board, qualifying local program, or department in response to this chapter shall be deposited into a special nonreverting fund.~~

1 A. Fees ~~All fees~~ collected by the Department or Board pursuant to this chapter shall be deposited into ~~known as the Virginia Stormwater Management Fund established by,~~ and shall be used and accounted for as specified in §10.1-603.4:1 of the Code of Virginia. Fees collected by the Department or Board shall be exempt from statewide indirect costs charged and collected by the Department of Accounts.

2 B. Fees ~~All fees~~ collected by a qualifying local program pursuant to this chapter shall be ~~deposited into a special fund created by the program authority subject to accounting review~~ and ~~shall be~~ used solely to carry out the qualifying local program's responsibilities pursuant to Part II and Part IIIA of these regulations.

Whenever the board has ~~delegated~~ authorized the administration of a stormwater management program ~~to by a locality~~ qualifying local program ~~or is required to do so by the Act,~~ ~~no more than~~ 30% of the total revenue generated by the statewide stormwater management fees collected within the locality in accordance with 4 VAC 50-60-820 shall be remitted on a monthly basis to the State Treasurer for deposit in the Virginia Stormwater Management Fund.

[County projects that waive fees; still need state portion.]

### 4VAC50-60-790. General.

~~Each permit application for a new permit each permit application for reissuance of a permit, each permit application for major modification of a permit, and each revocation and reissuance of a permit is a~~ The fees for permits, general permit coverage, permit or registration statement modification, or permit transfers are considered separate actions and shall be assessed a separate fee, as applicable. The fees for each type of permit that the permit-issuing authority has the authority to issue, reissue or modify will be as specified in this part.

### 4VAC50-60-800. Fee schedules for VSMP Municipal Separate Storm Sewer System new permit issuance.

The following fee schedule applies to permit applications for issuance of a new VSMP Municipal Separate Storm Sewer System permit.

VSMP Municipal Stormwater / MS4 Individual (Large and Medium)	\$21,300
	<u>\$12,000</u>

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VSMP Municipal Stormwater / MS4 Individual (Small)	\$2,000 <u>\$6,000</u>
VSMP Municipal Stormwater / MS4 General Permit (Small)	\$600 <u>\$2,700</u>

**4VAC50-60-810. Fee schedules for major modification of MS4 individual permits or certificates requested by the permittee-permittee.**

The following fee ~~schedules~~ schedule ~~apply~~ applies to applications for major modification of an individual MS4 permit requested by the permittee:

~~The permit application fees listed in the table below apply to a major modification of a VSMP Municipal Separate Storm Sewer Systems Permit that occurs (and becomes effective) before the stated permit expiration date.~~

VSMP Municipal Stormwater / MS4 Individual (Large and Medium)	\$10,650 <u>\$4,000</u>
VSMP Municipal Stormwater / MS4 Individual (Small)	\$1,000 <u>\$2,000</u>

**4VAC50-60-820. Fees for ~~filing permit applications (registration statements)~~ an individual permit or for coverage under the general permits ~~permit issued by the permit-issuing authority for discharges of stormwater from construction and post construction activities.~~**

~~The following fees apply to filing of permit applications (registration statements) for all general permits issued by the permit-issuing authority, except VSMP Stormwater Construction General Permits~~ an individual permit or coverage under the VSMP General Permit for Discharges of Stormwater From Construction Activities.

~~The fee for filing a permit application (registration statement) for coverage under a VSMP stormwater general permit issued by the permit-issuing authority shall be:~~

[Can we clarify the language – site vs. common plans of development -is it all driven by the permit fee.]

<u>VSMP General / Stormwater Management - Phase II Land Clearing [Small Construction Activity - Sites (within designated areas of Chesapeake Bay Act localities) equal to or greater than 2,500 square feet and less than 0.5 acre]</u>	<u>\$300</u>
<u>VSMP General / Stormwater Management - Phase II Land Clearing (Small Construction Activity - Areas within common plans of development or sale less than 1 acre)</u>	<u>\$300</u>
<u>VSMP General / Stormwater Management - Phase II Land Clearing [Small Construction Activity – Sites (within designated areas of Chesapeake Bay Act localities) equal to or greater than 0.5 acre and less than 1 acre]</u>	<u>\$1,500</u>
<u>VSMP General / Stormwater Management - Phase II Land Clearing (Small Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 1 acre and less than 5 Acres)</u>	<u>\$2,800</u>
<u>VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 5 acres and less than 10 acres)</u>	<u>\$3,500</u>

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<u>VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 10 acres and less than 50 acres)</u>	<u>\$4,600</u>
<u>VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 50 acres and less than 100 acres)</u>	<u>\$6,200</u>
<u>VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 100 acres)</u>	<u>\$9,800</u>
<u>VSMP Individual Permit for Discharges of Stormwater From Construction Activities</u>	<u>\$15,000</u>
<del>VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or common plans of development equal to or greater than 5 acres)</del>	<del>\$500</del>
<del>VSMP General / Stormwater Management - Phase II Land Clearing (Small Construction Activity - Sites or common plans of development equal to or greater than 1 acre and less than 5 Acres)</del>	<del>\$300</del>

**4VAC50-60-825. Fees for the modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater From Construction Activities.**

The following fees apply to modification or transfer of individual permits or of registration statements for the General Permit for Discharges of Stormwater From Construction Activities. If the permit modifications result in changes to stormwater management plans that require additional review by the local stormwater management program, such reviews shall be subject to the fees set out in this section.

<u>VSMP General / Stormwater Management - Phase II Land Clearing [Small Construction Activity - Sites (within designated areas of Chesapeake Bay Act localities) equal to or greater than 2,500 square feet and less than 0.5 acre]</u>	<u>\$20</u>
<u>VSMP General / Stormwater Management - Phase II Land Clearing (Small Construction Activity - Areas within common plans of development or sale less than 1 acre)</u>	<u>\$20</u>
<u>VSMP General / Stormwater Management - Phase II Land Clearing [Small Construction Activity - Sites (within designated areas of Chesapeake Bay Act localities) equal to or greater than 0.5 acre and less than 1 acre]</u>	<u>\$110</u>
<u>VSMP General / Stormwater Management - Phase II Land Clearing (Small Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 1 acre and less than 5 Acres)</u>	<u>\$200</u>
<u>VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 5 acres and less than 10 acres)</u>	<u>\$240</u>
<u>VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 10 acres and less than 50 acres)</u>	<u>\$320</u>
<u>VSMP General / Stormwater Management - Phase I Land Clearing (Large</u>	<u>\$440</u>

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Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 50 acres and less than 100 acres)	
VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 100 acres)	<u>\$690</u>
VSMP Individual Permit for Discharges of Stormwater From Construction Activities	<u>\$5,000</u>

## 4VAC50-60-830. Permit maintenance fees.

A. The following annual permit maintenance fees apply to each VSMP permit identified below, including expired permits that have been administratively continued. With respect to the General Permits for Discharges of Stormwater From Construction Activities, these fees shall apply until the permit is terminated:

VSMP Municipal Stormwater / MS4 Individual (Large and Medium)	<del>\$3,800</del> <u>\$8,000</u>
VSMP Municipal Stormwater / MS4 Individual (Small)	<del>\$400</del> <u>\$4,000</u>
VSMP Municipal Stormwater / MS4 General Permit (Small)	<u>\$2,000</u>
VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or <u>areas within</u> common plans of development or sale equal to or greater than <del>5</del> <u>100</u> acres)	<del>\$0</del> <u>\$1,370</u>
VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 50 acres and less than 100 acres)	<u>\$870</u>
VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 10 acres and less than 50 acres)	<u>\$640</u>
VSMP General / Stormwater Management - Phase I Land Clearing (Large Construction Activity - Sites or areas within common plans of development or sale equal to or greater than 5 acres and less than 10 acres)	<u>\$480</u>
VSMP General / Stormwater Management - Phase II Land Clearing (Small Construction Activity - Sites or <u>areas within</u> common plans of development or sale equal to or greater than 1 acre and less than 5 Acres)	<del>\$0</del> <u>\$390</u>
VSMP General / Stormwater Management - Phase II Land Clearing (Small Construction Activity – Sites (within designated areas of Chesapeake Bay Act localities) equal to or greater than 0.5 acre and less than 1 acre)	<u>\$210</u>
VSMP General / Stormwater Management - Phase II Land Clearing (Small Construction Activity - Sites (within designated areas of Chesapeake Bay Act localities) equal to or greater than 2,500 square feet and less than 0.5 acre)	<u>\$40</u>
VSMP General / Stormwater Management - Phase II Land Clearing (Small Construction Activity - Areas within common plans of development or sale less than 1 acre)	<u>\$40</u>
VSMP Individual Permit for Discharges of Stormwater From Construction Activities	<u>\$3,000</u>

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~~B. An additional permit maintenance fee of \$1,000 shall be paid annually by permittees in a toxics management program. Any facility that performs acute or chronic biological testing for compliance with a limit or special condition requiring monitoring in a VPDES permit is included in the toxics management program.~~

[The maintenance fees seem low.]

[Adjustment of fees by CPI to keep them current.]